

HARVARD PRISON LEGAL ASSISTANCE PROJECT

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Filing for Your CARES Act Stimulus Check

Last Updated: October 4, 2020

NOTE: Harvard Prison Legal Assistance Project (Harvard PLAP) is unable to assist prisoners in applying for stimulus payments or provide advice regarding these applications. The information being provided in this packet is for informational and educational purposes only. It is not legal advice, and receiving or using this information does not create an attorney-client relationship between you and Harvard PLAP. The facts and the law in this area are changing quickly; Harvard PLAP has limited resources and as such cannot guarantee that the information in this packet remains current at the time you are reading this packet. If you need legal advice, please consult a lawyer, and/or contact the firm of Lieff, Cabraser, Heimann & Bernstein as follows.

The goal of this self-help packet is to inform the reader about ways in which a sentenced Massachusetts prisoner (county or state) can file for a CARES Act stimulus check. Unfortunately, Harvard PLAP is unable to provide direct assistance with these filings. We hope that this packet will be helpful to incarcerated people in filing for CARES Act stimulus checks on their own. Below, there is a short guide to eligibility for CARES Act stimulus checks along with information on how to file a claim. This self-help guide also includes the form required to file by mail and a sample with instructions on how to complete this form. The information in this self-help guide is largely adapted from the website "CARES Act Relief for Incarcerated People" posted by Lieff, Cabraser, Heimann & Bernstein at <https://www.lieffcabraser.com/cares-act-relief/>

On September 24, 2020, Judge Phyllis J. Hamilton of the U.S. District Court for the Northern District of California issued an Order granting the plaintiffs' motion for preliminary injunction requiring the U.S. Department of Treasury, the U.S. Internal Revenue Service, and the United States of America to stop withholding CARES Act stimulus funds from people in state and federal prisons on the sole basis of their incarcerated status. However, the IRS has currently set a deadline of October 15, 2020 to file a claim. **This means that claims must be postmarked (if mailed) or e-filed (if online) on or before October 15.**

What benefits could I receive under the CARES Act?

If you qualify, you could receive up to \$1,200 per person, or \$2,400 for married couples filing jointly, plus \$500 per qualifying child. According to the IRS, your children only qualify for a payment if they were age 16 or younger on December 31, 2019, and if they lived with you for more than half of 2019.

Please note that the IRS has indicated that it will divert payments when there are outstanding debts, such as unpaid child support.

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2020 NOV - 6 AM 10:55
U.S. DISTRICT COURT
DISTRICT OF MASS.

A FEDERAL COURT HAS ORDERED THAT THE IRS MAY NOT DENY CARES ACT ECONOMIC IMPACT PAYMENTS TO ANYONE SOLELY BECAUSE THEY ARE INCARCERATED

If you are or were incarcerated at some point since March 27, 2020, you may need to take action by October 15, 2020 to receive a payment.

In March 2020, Congress passed the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"). The Act provides emergency relief to eligible individuals in the form of a tax credit for 2020. The Act instructs the IRS to issue advance refunds to eligible individuals as rapidly as possible.

The IRS previously took the position that people who are incarcerated are not eligible for advance refunds. On September 24, 2020, a federal court ruled that the IRS's position was likely unlawful. The case is Scholl v. Mnuchin, No. 4:20-cv-5309-PJH (N.D. Cal.). The court ordered the IRS to stop denying payments to people solely because they are incarcerated, and ordered the IRS to make payments to people who were previously denied one because they were incarcerated within 30 days.

Who is eligible for an Economic Impact Payment?

You are eligible if all of the following are true:

You are a U.S. Citizen or Legal Permanent Resident;

You were not claimed as a dependent on another person's tax return; and,

If you are married or if you have qualifying children, your spouse and your children have a valid Social Security Number. This restriction does not apply if you or your spouse served in the Armed Forces in 2019.

If I am eligible, how much will my payment be?

If you meet the criteria above, your payment will be up to \$1,200 if you filed individually or \$2,400 if you filed jointly with a spouse, plus \$500 per qualifying child. Your payment will be reduced by 5% of income you received in 2019 above: \$150,000 for joint filers, \$112,500 for a head of household, and \$75,000 in all other cases.

What do I need to do to receive a payment?

It depends:

If you filed a 2018 or 2019 tax return, or if you receive Social Security Benefits or Railroad Retirement Benefits, you do not need to take any action. You should receive an automatic payment in the mail.

If you did not file a 2018 or 2019 tax return and your income was below \$12,200 (or \$24,400 if filing jointly), but you are an eligible individual as defined above, you must take action by October 15 to receive an advance payment. If you have access to the Internet, you can file a claim at the following URL:

www.irs.gov/coronavirus/non-filers-enter-payment-info-here

Alternatively, you can file a claim using the enclosed paper form, by mail postmarked on or by October 15.

Where can I find more information?

www.lieffcabraser.com/cares-act-relief/

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Frequently Asked Questions About CARES Act Relief for Incarcerated People

Please be aware that the deadline and **the entire process for how to get CARES Act relief funds was set by the government.** The Equal Justice Society and Lieff Cabraser's role was bringing a lawsuit to ensure that the government didn't prevent incarcerated people and their families from participating in a benefit intended for all Americans. (The answers below were edited slightly by Black & Pink to apply to our members).

1. What are the benefits available?

Eligible individuals can receive up to \$1,200 per person, or \$2,400 for married couples filing jointly, plus \$500 per qualifying child.

2. How do I know if my children qualify as dependents for purposes of the claim form?

According to the IRS, your children only qualify for a payment if they were age 16 or younger on December 31, 2019, and if they lived with you for more than half of 2019.

3. Does it cost anything to file a Form 1040 claim with the IRS? No.

4. Am I eligible? You are eligible to file a claim if you satisfy all of the following requirements:

- You are a U.S. Citizen or Legal Permanent Resident
- You are not married to someone who lacks a social security number, or have a child who lacks one, UNLESS you or your spouse served in the Armed Forces in 2019
- You filed a tax return in 2018 or 2019 or you were exempt from doing so because your income in 2019 was below \$12,200 a year or, if married and filing jointly, below \$24,400
- You were not claimed as a dependent on another person's tax return

5. What if I entered prison before ever holding a paid job or filing any tax documents on the outside – am I still eligible?

Yes, so long as you meet the other general eligibility requirements listed above in Question 4.

6. If I am on parole, supervised release, released from all restrictions, and/or my record has been expunged, can I make a claim? Yes. If you meet the other requirements set forth in Questions 4 and 5 above.

7. What is the filing deadline?

The IRS has currently set a deadline of October 15, 2020 to file a claim. This means that claims must be postmarked (if mailed) on or by October 15. (There may be an extension, so still file the form even if you miss the current deadline).

8. How do I file a claim?

If you filed a 2018 or 2019 tax return or receive Social Security Benefits or Railroad Retirement Board Benefits, you do not need to file a claim. However, if you did not file a 2018 or 2019 tax return and your income was below \$12,200 (or \$24,400 if filing jointly) in 2019, then you should **mail in the Form 1040.**

9a. Where do I mail my completed form? The address will vary depending on where you live. See the chart on the second page.

10. Can I file a claim if I had no earnings? Yes. You are eligible for an advanced payment even if you had zero income in 2019.

12. Can I make a claim if I do not have a bank account?

Yes. Just leave blanks in the "refund" section (lines 20-22) on the claim form, which ask for routing and account numbers. The IRS has indicated it will mail checks to people without bank accounts.

13. What do I do if I get a refund check but I am incarcerated?

Please check with your facility to understand its rules on how government tax refund checks will be distributed. For example, certain California rules (15 CA ADC § 3140) provide that:

"Mailroom staff shall deliver all received. . . tax refund checks to the Inmate Trust Office. The Accounting Officer shall notify the facility representative that checks are being held pending determination of eligibility of the inmates to receive the checks. The facility representative shall notify the appropriate agency. . . .

"Funds shall not be released for spending by the inmate for thirty (30) days from the date of deposit into the inmate trust account and must have cleared the bank upon which they were drawn. When any personal check, money order, cashier's check, certified check, or any other negotiable instrument is received, the face of the envelope in which the funds were received shall be imprinted with a stamp indicating the funds have been accepted at this time. This stamp is not intended to indicate that the funds are immediately available for inmate use, but only that the funds were accepted for processing by the department."

14. What do I do if I applied for a stimulus check before September 24 and it was rejected, or what do I do if the check was intercepted or returned?

The court order directs the IRS to automatically re-process these claims by October 24, 2020. If you do not receive your payment by November 1, 2020, and do not see it scheduled on the IRS website, please contact the law firm through the website below:

Website: <https://www.lieffcabraser.com/cares-act-relief/>

THE POST OFFICE MUST POSTMARK YOUR ENVELOPE BY THURSDAY OCTOBER 15TH!

If you miss the deadline, still mail the form in case of a deadline extension.

Mail your Form 1040 to the IRS at the address below:

If your prison is in this state...

Alabama, Arkansas, Delaware, Georgia, Indiana, Iowa,
Kentucky, Maine, Massachusetts, Missouri, New
Hampshire, New Jersey, New York, North Carolina,
Oklahoma, South Carolina, Tennessee, Vermont, Virginia
Arizona, Colorado, Connecticut,
District of Columbia, Idaho, Kansas, Montana, Nebraska,
Nevada, New Mexico, Maryland, Oregon, North Dakota,
Pennsylvania, Rhode Island, South Dakota, Utah, West
Virginia, Wyoming
Florida, Louisiana, Mississippi, Texas

Alaska, California, Hawaii, Illinois, Michigan, Minnesota,
Ohio, Washington, Wisconsin

Mail the Form 1040 to this address:

Department of the Treasury
Internal Revenue Service
Kansas City, MO 64999-0002

Department of the Treasury
Internal Revenue Service
Ogden, UT 84201-0002

Department of the Treasury
Internal Revenue Service
Austin, TX 73301-0002

Department of the Treasury
Internal Revenue Service
Fresno, CA 93888-0002

List this as your address on the Form 1040:

Volunteers at Black & Pink have done our best to check the regulations and guidance from every state DOC and the federal BOP about where incarcerated people should receive checks from the government. You may wish to double-check with a prison official about what address to list before you fill out that section of your form.

- If your state is *not* listed below, write your prison facility address on Form 1040
- If your state or DOC is listed below, use this specific address on Form 1040:

ARKANSAS Arkansas DOC: Trust Fund Centralized Banking P.O. Box 8908 Pine Bluff, AR 71611	CONNECTICUT Inmate Trust Fund P.O. Box 290800 Wethersfield, CT 06129	FLORIDA Florida DOC, Inmate Trust Fund Centerville Station P.O. Box 12100 Tallahassee, FL 32317	IOWA IDOC Offender Fiduciary Account 1550 L Street, Suite B Fort Dodge, IA 50501
MISSISSIPPI Inmate Banking PO Box 97538 Pearl, MI 39288	MISSOURI Offender Finance Office, Missouri DOC P.O. Box 1609 Jefferson City, MO 65102	NEVADA NDOC Inmate Banking Services PO Box 7011 Carson City, NV 89702	OREGON Central Trust, Oregon DOC PO Box 14400 Salem, OR 97309-5077
PENNSYLVANIA (Send the check to your PRISON address, not to the Smart Communications address in Florida for mail.)	TEXAS Inmate Trust Fund, P.O. Box 60 Huntsville, Texas 77342- 0060		FEDERAL BOP Federal Bureau of Prisons PO Box 474701 Des Moines, Iowa 50947- 0001

\$24,400 if filing jointly. You can find more information about filing by mail on the IRS website:
<https://www.irs.gov/newsroom/file-a-simplified-paper-tax-return>

If filing in Massachusetts, you should mail your claim to the address below:

Department of the Treasury
Internal Revenue Service
Kansas City, MO 64999-0002



If you are filing in another state, you can find the correct address here:
<https://www.lieffcabraser.com/cares-act-relief/>

What information do I need to have before filling out a claim?

You will need:

- Full name
- Mailing address
- Email address (if filing online)
- Date of birth
- Valid Social Security number (unless you have an Individual Taxpayer Identification Number (ITIN) and are married to a military member)
- Bank account and routing number (if you have one)

For each qualifying child:

- Name
- Social Security Number or Adoption Taxpayer Identification Number
- Relationship of child to you or your spouse

Can I make a claim if I do not have a bank account?

Yes. Just leave blanks in the “refund” section (lines 20-22) on the claim form, which ask for routing and account numbers. The IRS has indicated it will mail checks to people without bank accounts.

Will I be able to receive a check mailed directly to a correctional facility?

The Massachusetts Department of Corrections states on its website that it may accept Federal Government checks on a discretionary basis: “The Department of Correction may, on a case-by-case basis, at its discretion, accept for deposit Federal Government and/or State Government checks, or checks issued by commercial entities sent directly by the issuer to an inmate at a Department of Correction facility. Such checks must contain sufficient documentation to identify the issuer, the payee, the source of the funds, and the eligibility of the inmate to receive the funds. Checks that do not meet the criteria will be returned to the sender. Dual payee checks will not be accepted and will be returned to the sender.” (<https://www.mass.gov/how-to/deposit-money-to-an-inmates-personal-account>)